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10 **IN THE UNITED STATES DISTRICT COURT**
11 **FOR THE DISTRICT OF ARIZONA**

12 Kashane Kirk, as Personal Representative
13 and on behalf of the Estate of Leontae
14 Kirk; Sharon Roberts, individually;
15 Brittanie Turner, on behalf of and as legal
16 guardian and parent of her minor child,
17 MC,

18 Plaintiffs,

19 vs.

20 City of Phoenix, a governmental entity;
21 Michael Sullivan, Chief of the Phoenix
22 Police Department; Autumn Ladines and
23 John Doe Ladines, husband and wife;
24 Officer Antonio Garza and Jane Doe
25 Garza, husband and wife; Sergeant Eric
26 Roy and Jane Doe Roy, husband and wife;
27 Jaclyn Ravelo and John Doe Ravelo,
28 husband and wife; Steven Ramirez and
Jane Doe Ramirez, husband and wife;
Jonathan Howard and Jane Doe Howard,
husband and wife;

Defendants

Case No: CV-23-00836-PHX-MTL
(CDB)

FIRST AMENDED COMPLAINT

(JURY TRIAL DEMANDED)

(Assigned to the Honorable Michael T.
Liburdi and referred to the Honorable
Camille D. Bibles)

Plaintiffs, by and through their attorneys, Mills + Woods Law, PLLC, for their
Complaint against the CITY OF PHOENIX, a governmental entity; MICHAEL
SULLIVAN, Chief of the Phoenix Police Department; AUTUMN LADINES AND JOHN
DOE LADINES, husband and wife; OFFICER GARZA AND JANE DOE GARZA,

1 husband and wife; SERGEANT ROY AND JANE DOE ROY, husband and wife;
2 JACLYN RAVELO AND JOHN DOE RAVELO, husband and wife; STEVEN
3 RAMIREZ AND JANE DOE RAMIREZ, husband and wife; JONATHAN HOWARD
4 AND JANE DOE HOWARD, husband and wife; (collectively “Defendants”), hereby
5 allege as follows:

6 **INTRODUCTION**

7 This case arises out of the unlawful and wrongful use of deadly force by the Phoenix
8 Police Department through the City of Phoenix and the officers listed as defendants. The
9 individual defendants’ actions are a direct result of the long standing and sustained
10 practices of the City and the Phoenix Police Department violative of the United States
11 Constitution.

12 Leontae was a loving father and was a musician who loved his craft. Kashane Kirk,
13 Leontae’s brother describes Leontae:

14 He was never a trouble maker, he said when we were kids he always wanted
15 to be a music artist and have fun doing it and to put a smile on peoples’ faces.
16 He was a selfless and giving person who only wanted to look out for his
17 family. He promised that if he ever made it in the music industry and received
18 a good income from it, he would take care of his family so they would not
19 have to struggle in life.

20 He was full of love and forgiveness when others would do him wrong in life,
21 he would be the type to be the bigger person in a situation. I can say no matter
22 how hard life got, he always tried to keep a smile on his face through all the
23 pain and struggles we would go through growing up. He would try to stay
24 busy with doing side jobs as much as possible as he got older and he worked
25 on doing music as well to stay busy. He wanted to be someone that others
26 look up to and would love to motivate kids to do good in life.

27 He was a loving father to his child, and he doted on her and pushed himself
28 to be that father figure as much as possible. He wanted the best for his child
and wanted her to see how much he loved her. He would be there for her for
special occasions and when his daughter had sporting events at school, he
would put forward the effort to go out of his way to see her and to cheer her
up to let her know that her father was there watching her.

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JURISDICTION AND VENUE

1. Pursuant to 42 U.S.C. §1983 *et seq.*, Plaintiffs bring this action for violations of the United States Constitution, including without limitation the Eighth and Fourteenth Amendments and Arizona common and statutory laws, including A.R.S. §12-611, *et seq.*

2. The amount in controversy exceeds the minimal jurisdictional limits of this Court.

3. Jurisdiction is proper pursuant to 28 U.S.C. §1331 and 28 U.S.C. §1367(a).

4. To the extent applicable, and without conceding that said statute applies, Plaintiffs have served their Notice of Claim upon Defendants in compliance with A.R.S. §12-611, *et seq.* More than sixty (60) days have expired since Plaintiffs served their Notice of Claim and Defendants have not responded in any manner to said Notice of Claim.

5. Pursuant to Article 6, Section 14 of the Arizona Constitution, this court has original subject matter jurisdiction in this Complaint because the claims relate to causes of action, the underlying acts and/or omissions for which, at all times relevant, have caused the events alleged herein to occur with primary effect in Maricopa County, Arizona.

6. Venue is proper pursuant to 28 U.S.C. § 1391(b) and in that the specific acts giving rise to the causes of action alleged herein occurred with primary effect in Maricopa County, Arizona.

PARTIES

7. At all relevant times until his death on November 2, 2022 at the age of twenty-nine (29), Leontae Kirk (“Leontae”) was an individual residing in Maricopa County, Arizona.

8. At all relevant times, Plaintiff Sharon Roberts (“Roberts”) was an individual residing in Maricopa County, Arizona, and is the natural mother of Leontae.

9. At all relevant times, Plaintiff Kashane Kirk (“Kashane”) as personal representative of the Estate of Leontae Kirk (the “Estate”) was an individual residing in Maricopa County, Arizona.

10. On May 10, 2023 the Superior Court, Maricopa County, Arizona, appointed Kashane Kirk as Personal Representative of the Estate.

1 11. At all relevant times, Plaintiff Brittanie Turner on behalf of and as legal
2 guardian of MC, a minor child, was an individual residing in Maricopa County, Arizona,
3 and is the natural mother of minor child MC. At all relevant times, MC was an individual
4 residing in Maricopa County, Arizona. MC is the natural child of Leontae Kirk.

5 12. On November 5, 2011, Leontae Kirk and Brittanie Turner gave birth to MC,
6 a minor child.

7 13. Defendant CITY OF PHOENIX is a governmental entity that acts by and
8 through its officials, employees, and agents, including without limitation the Phoenix
9 Police Department, and each of the other Defendants in this action except for Defendants
10 Humberto Gonzalez-Rios and Jane Doe Gonzalez-Rios.

11 14. Defendant MICHAEL SULLIVAN is the Chief of the Phoenix Police
12 Department and is sued in his official and individual capacity. He is tasked with oversight
13 of the Phoenix Police Department and is responsible for all policies and procedures
14 promulgated by the Phoenix Police Department. He is an agent of the City of Phoenix and
15 the Phoenix Police Department, operating in his official and individual capacity in
16 Maricopa County, Arizona.

17 15. Defendant AUTUMN LADINES is a Police Officer, employed by and is an
18 agent of the City of Phoenix and the Phoenix Police Department, operating in her official
19 and individual capacity in Maricopa County, Arizona.

20 16. Defendant OFFICER ANTONIO GARZA is a Police Officer, employed by
21 and is an agent of the City of Phoenix and the Phoenix Police Department, operating in her
22 official and individual capacity in Maricopa County, Arizona.

23 17. SERGEANT ERIC ROY is a Police Officer, employed by and is an agent of
24 the City of Phoenix and the Phoenix Police Department, operating in her official and
25 individual capacity in Maricopa County, Arizona. a Police Officer, employed by and is an
26 agent of the City of Phoenix and the Phoenix Police Department, operating in her official
27 and individual capacity in Maricopa County, Arizona.

28 18. JACLYN RAVELO is a Police Officer, employed by and is an agent of the
City of Phoenix and the Phoenix Police Department, operating in her official and individual

1 capacity in Maricopa County, Arizona.

2 19. STEVEN RAMIREZ is a Police Officer, employed by and is an agent of the
3 City of Phoenix and the Phoenix Police Department, operating in her official and individual
4 capacity in Maricopa County, Arizona.

5 20. JONATHAN HOWARD is a Police Officer, employed by and is an agent of
6 the City of Phoenix and the Phoenix Police Department, operating in her official and
7 individual capacity in Maricopa County, Arizona.

8 21. Defendants Roy, Ladines, Garza, , Ravelo, Ramirez, and Howard , for
9 brevity's sake will be collectively referred to as "Phoenix Defendants" unless otherwise
10 necessary to list them individually.

11 22. Defendants JOHN DOE LADINES; JANE DOE GARZA; JANE DOE
12 ROY; JOHN DOE RAVELO; and JANE DOE RAMIREZ are included as Defendants
13 because the Phoenix Defendants were acting for the benefit of their respective marital
14 communities, if any, and therefore the respective marital communities, if any, are liable for
15 their actions as set forth herein.

16 23. The City of Phoenix is vicariously liable under the principle of *respondeat*
17 *superior* for the actions and inactions of the employees of the Phoenix Police Department
18 (the "City") and any private contractors including those employees or contractors named
19 as defendants in this action, as to any claims that are asserted by Plaintiff as a result of
20 violations of the Arizona Constitution and Arizona common law because, at all relevant
21 times, Defendants were acting within the course and scope of their employment or contract
22 with Phoenix - or entities privately contracted with Phoenix.

23 24. For purposes of Plaintiffs' claims arising under Federal law, including
24 without limitation the United States Constitution and 42 U.S.C. §1983 *et seq.*, and as may
25 be relevant to Plaintiff's state law claims, at all relevant times described herein, Defendants
26 were acting under color of state law.

27 25. Each of the Defendants failed to do what is minimally required of them by
28 the United States Constitution, and the laws of the State of Arizona, relative to the care,
custody and control of Leontae Kirk.

26. By failing in these obligations, Defendants were deliberately indifferent to Leontae's rights guaranteed him by the United States Constitution and the State of Arizona.

27. As a result of Defendants' deliberate indifference and as a result of intentional acts and omissions to act that fell below the proscribed standard of care – through failures to properly supervise; properly carry out their job duties; and to properly administer medical attention – Kirk died at the age of twenty-nine (29).

BACKGROUND

UNITED STATES DEPARTMENT OF JUSTICE ANNOUNCES INVESTIGATION INTO THE PHOENIX POLICE DEPARTMENT

28. The United States Department of Justice ("USDOJ") announced on August 5, 2021 that they were investigating the Phoenix Police Department. A portion of the text of the announcement follows:

Attorney General Merrick B. Garland and Assistant Attorney General Kristen Clarke for the Civil Rights Division announced today that the Justice Department has opened a pattern or practice investigation into the City of Phoenix and the Phoenix Police Department (PhxPD).

This investigation will assess all types of use of force by PhxPD officers, including deadly force. The investigation will also seek to determine whether PhxPD engages in retaliatory activity against people for conduct protected by the First Amendment; whether PhxPD engages in discriminatory policing; and whether PhxPD unlawfully seizes or disposes of the belongings of individuals experiencing homelessness. In addition, the investigation will assess the City and PhxPD's systems and practices for responding to people with disabilities. The investigation will include a comprehensive review of PhxPD policies, training, supervision, and force investigations, as well as PhxPD's systems of accountability, including misconduct complaint intake, investigation, review, disposition, and discipline.

The investigation is being conducted pursuant to the Violent Crime Control and Law Enforcement Act of 1994, which prohibits state and local governments from engaging in a pattern or practice of conduct by law enforcement officers that deprives individuals of rights protected by the Constitution or federal law. The statute allows the Department of Justice to remedy such misconduct through civil litigation. This is the seventy-third investigation of a law enforcement agency conducted pursuant to this statute

1 since it was enacted in 1994. The department will be assessing law
2 enforcement practices under the First, Fourth, and Fourteenth Amendments
3 to the United States Constitution, as well as under the Safe Streets Act of
4 1968; Title VI of the Civil Rights Act of 1964; and Title II of the Americans
with Disabilities Act.

5 Retrieved February 2, 2023 from [https://www.justice.gov/opa/pr/justice-department-
6 announces-investigation-city-phoenix-and-phoenix-police-department](https://www.justice.gov/opa/pr/justice-department-announces-investigation-city-phoenix-and-phoenix-police-department)

7 29. As a result of the investigation, the City and the Phoenix Police Department
8 received suggestions to increase the usage of de-escalation techniques and decrease the
9 employment of unwarranted deadly force.

10 30. Based on the foregoing, it is unquestionable that there is a systemic failure
11 within the City to train, supervise, and regulate the Phoenix Police Department and its
12 agents. The policies and procedures in place have established a police force that acts with
13 blatant disregard for Arizona citizens' constitutional rights and extreme indifference to the
value of human life.

14 PHOENIX POLICE NEW USE OF FORCE POLICY

15 31. In order to properly establish the basis for the claims included herein, it is
16 important to outline the longstanding history of the Phoenix Police Department, and its
17 agents, systemic use of excessive force and unlawful use of deadly force against the citizens
18 of Phoenix, Arizona. This pattern of unlawful policing has been overseen, managed, and
19 sustained by the City.

20 32. For decades, the City of Phoenix has established and implemented policies
21 and procedures that have consequently generated a police force that consistently acts with
22 wanton disregard for the constitutional rights of individuals and the sanctity of human life.

23 33. Despite the evidence to the contrary, the Phoenix Police Department alleges
24 that their Officers receive Operations Orders that can guide their actions, but the patterns
25 and practices of the City and the Phoenix Police Department have been violative of Arizona
citizens' rights for years.

26 34. It should be noted that the Phoenix Police Department's Use of Force Policy
27 ("Force Policy") was updated in January 2023. The Phoenix Police Department – as
28

1 discussed herein – has been the subject of a USDOJ investigation due to their violent,
2 racially-motivated tactics.

3 35. The Phoenix Police and City’s policies, patterns, and practices regarding use
4 of force and “active shooters” has been woefully deficient for years.

5 36. Upon information and belief, Phoenix Police Chief Michael Sullivan was
6 hired in September 2022 specifically to help the department address the wide-ranging and
7 ongoing probe by the USDOJ.

8 37. A major component of the USDOJ’s investigation is into the use of force of
9 Phoenix Police officers. The Phoenix Police Department is no stranger to civil wrongful
10 death lawsuits and years of protests. It is an institutional problem and the City, the Police,
11 and the Phoenix Defendants are all actors in the shameful display of policing and failure to
12 take accountability, including misconduct complaint intake, investigation, review,
13 disposition, and discipline that has occurred throughout the years – culminating in the
14 horrific, violent, take no prisoners approach the Offenders used on November 2, 2022 to
murder Leontae Kirk.

15 38. In response, Sullivan implemented a new Use of Force Policy (“Force
16 Policy”) that applies to all Phoenix Police Officers. Operations Order 1.5 details the Force
17 Policy.

18 39. According to the Force Policy, the purpose is:

19 [T]o establish what constitutes a permissible use of force by an employee, and
20 the employee’s duties before, during, and after using force. The goal of every
21 encounter is to resolve it without resorting to force, and using force in any
case must be based on a careful assessment of the situation, including the
threats, options, and risks faced by the employee.

22 *Phoenix Police Department Use of Force Policy Rev. 01/23* retrieved from
23 <https://www.phoenix.gov/policesite/Documents/1.5%20Use%20of%20Force%202023.pdf>
24 [f](#) on February 2, 2023.

25 40. The Force Policy further states that “The standards established by this
26 Department policy are deliberately stricter than the Constitutional and legal minimums
27 established by the Courts. These more rigorous standards for use of force must be complied
28

1 with.” *Id.*

2 41. The Core Principles in the new Force Policy are:

3 A. Sanctity of Human Life – Employees shall make every effort to preserve human
4 life in all situations.

5 B. Value and Worth of All Persons – Employees shall respect and uphold the value,
6 rights, liberty, and dignity of all persons at all times.

7 C. Use of Force: Reasonable, Necessary, and Proportional – Employees shall use
8 only the force that is reasonable, necessary, and proportional to effectively and safely
9 resolve an incident. The employee will immediately reduce the level of force as the
10 threat or resistance diminishes.

11 D. De-Escalation – Employees shall use de-escalation techniques and tactics when
12 feasible to attempt to reduce any threat or gain compliance with lawful commands
13 without the use of force. If that is not possible, the employee must reduce or eliminate
14 the threat using the lowest level of force possible. Employees shall avoid action or
15 language that escalates an encounter unless necessary to achieve a lawful purpose.

16 E. Continuous Assessment – Employees shall continuously assess each situation and
17 modify their response as the circumstances change—before, during, and after an
18 employee uses force. Employees may be justified in using force at a particular
19 moment but not justified in using force when circumstances change.

20 F. Reporting Use of Force – Each employee who uses force, or observes another
21 employee or employees use force, shall notify their supervisor as soon as practical,
22 and will accurately complete the required Incident Report and/or any supplements
23 by the end of their shift.

24 G. Duty to Intervene – All employees shall intervene, with no fear of retaliation,
25 when they know or should know another employee is using unreasonable force or is
26 otherwise engaging in abusive behavior or misconduct.

27 H. Duty to Provide Medical Assistance – As soon as practical after any Use of Force
28 incident, employees are responsible for requesting medical treatment for injured
subjects and rendering aid consistent with the employee’s training.

I. Accountability – Employees shall be held accountable for uses of force that violate
law or policy. Employees have an absolute duty to report all misconduct, including
but not limited to, the use of excessive force.

J. Retaliatory Force – Employees shall not use force against persons to punish them
for fleeing, resisting arrest, assaulting an employee, or for any other reason. *Id.*

42. Use of Force is defined as:

(1) Sworn and civilian employees acting in an enforcement capacity have the authority to use Reasonable, Necessary, and Proportional force when necessary to accomplish lawful objectives.

(a) This authority is limited by the United States Constitution, federal law, laws of the State of Arizona, and the provisions of this policy.

(b) Employees must conform their actions to the requirements of these sources of lawful authority.

(c) When employees use force, they shall exercise the utmost restraint.

(d) Employees should announce that force will be utilized prior to the application of such force unless it is impractical to do so.

(2) Employees shall prevent or stop the illegal, inappropriate, or excessive Use of Force by other employees. Failure to intervene may subject an employee to disciplinary action.

(3) Only Department-issued or approved weapons, equipment, and irritants are authorized.

Id.

43. The Force Policy defines the Use of Deadly Force as:

(1) The use of Deadly Force shall always be the last resort.

(2) Employees shall not use Deadly Force unless:

- They have exhausted De-escalation and Less-Lethal Force options;
- These alternatives have been tried and failed; or
- These alternatives are not safe based on the Totality of Circumstances.

(3) Employees may use Deadly Force when they reasonably believe such action is immediately Necessary to protect an employee or another person from an Imminent Threat of death or Serious Physical Injury.

(4) Prior to the decision to employ Deadly Force, employees shall consider environmental considerations such as field of fire, backdrop, bystanders, potential for ricochet, possibility of over- penetration, and other risks to life.

(5) Where safety permits, employees should identify themselves as a law enforcement officer and state their intention to use Deadly Force before using a firearm or employing Deadly Force.

(6) An employee may use Deadly Force to prevent the escape of a fleeing person if force is authorized and no reasonable force alternative exists, provided that:

- There is probable cause to believe that the person has committed or is in the process of committing a felony involving the infliction or threatened infliction of Serious Physical Injury or death, and
- The escape of the person would pose an Imminent Threat of death or Serious Physical Injury to the employee or another unless the person is apprehended without delay, and
- If time, safety, and circumstances permit, employees have identified themselves as law enforcement officers, have stated their intention to use Deadly Force, and have given the person a reasonable opportunity to comply voluntarily.

Id.

44. The Force Policy defines the following duties:

A. Duty to Intervene

(1) Employees shall intervene to stop any employee from using excessive force and/or engaging in abusive behavior or other forms of misconduct; intervention may be verbal and/or physical.

B. Duty to Provide Medical Assistance

(1) As soon as practical, when there is a visible injury, complaint of injury, signs of medical distress, or when medical attention is requested by any person, employees shall render aid consistent with their training.

(a) When safe to do so, the employee shall promptly request that medical personnel respond to the scene.

(b) The employee shall then notify their supervisor.

(2) If a person has been subjected to impact by any type of Less-Lethal Force, including CEW, impact weapons, or impact projectiles, the person will be provided with medical treatment.

Id.

1 45. The updates to the Use of Force Policy show that the policies and procedures
2 in place at the time of Leontae's death failed to protect members of the public.

3 46. Even if the Force Policy as it exists now had been in place on November 2,
4 2022, it still proves that the force used by the Phoenix Defendants was unnecessary,
5 extreme, reckless, grossly negligent, and shows that the Offenders did nothing to verify the
6 situation, use less lethal methodologies, or use plain common sense. The Phoenix
7 Defendants – each and every one of them – had a duty to intervene.

8 **The City of Phoenix' Patterns, Policies, and Practice are Violative of the Rights**
9 **Protected by the Constitution and Federal Law**

10 47. Since 2015, there have been at minimum eighty-eight (88) officer involved
11 shootings that resulted in the fatalities of the suspect. Fifty-three (53) of those fatalities
12 were black individuals.

13 48. Chief Sullivan has even recognized that the City has failed to properly train
14 or implement constitutionally sound policies to prevent fatal Phoenix Police shootings.

15 49. On November 21, 2022 – just nineteen (19) days after the fatal shooting of
16 Leontae, Chief Sullivan presented a four-pronged plan to fix the failings of his predecessors
17 and the City's woefully deficient policies and training programs regarding the use of force,
18 including deadly force.

19 50. These include:

- 20 • Reinforce patrol briefing training on time, distance, and cover;
- 21 • Implement scenario-based training on de-escalation;
- 22 • Review the agency's use-of-force policies; and,
- 23 • Expand the training on less-lethal tools.

24 <https://www.phoenix.gov/newsroom/police/2573>

25 51. According to the Chief:

26 The initial few moments after officers arrive on a scene are critical. "The
27 decisions and actions of law enforcement officers are critically important and
28 can change the course of lives in a matter of seconds. That responsibility
forces us to constantly look at ways to get better and do better," said Chief
Sullivan.

Id.

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- 1 62. No physical altercation between the two occurred in the convenience store.
- 2 63. Humberto exited the convenience store before Leontae did.
- 3 64. Humberto went to “his” motorcycle and retrieved a gun.
- 4 65. He then sat on “his” motorcycle with his gun and waited for Leontae to exit
- 5 the store.
- 6 66. On video – while Humberto was lying in wait – a man pushing a stroller with
- 7 his child is seen.
- 8 67. When Leontae exited the store, his back was to Humberto.
- 9 68. He turned around and saw Humberto sitting on “his” motorcycle with a gun
- 10 pointed at Leontae.
- 11 69. Leontae ran.
- 12 70. Leontae never fired his weapon.
- 13 71. Police investigations confirmed through ballistics or otherwise that Leontae
- 14 never fired his weapon.

The Helicopter Officers

- 15 72. At this point, a Phoenix Police Helicopter was above the scene.
- 16 73. Incredibly, the “Helicopter Officers” – Howard, who was the pilot, and
- 17 Ramirez, the spotter with the primary job of relaying accurate information – claimed that
- 18 they saw Leontae and Humberto actively firing their weapons.
- 19 74. Dispatch audio announced inaccurately that there was an “ACTIVE
- 20 SHOOTER” situation.
- 21 75. The Helicopter Officers had binoculars. They had visual line of sight on
- 22 Leontae.
- 23 76. Yet, they failed in the simplest of tasks, Observation.
- 24 77. The Helicopter Officers recklessly and wrongfully reported what was plain
- 25 to see. They reported false information that Leontae was firing his weapon.
- 26 78. The Helicopter Officers have one overriding job: to observe.
- 27 79. They then report what they see. Mistakes cannot happen – they are life and
- 28 death decisions.

1 80. The Helicopter Officers reported that there was an active shooter – when
2 there clearly was not.

3 81. Because of The Helicopter Officers' complete dereliction of their duties, they
4 doomed Leontae to death by police.

5 82. The Helicopter Officers failed not only at their jobs and their duties, but they
6 provided false information to their colleagues.

7 83. The Helicopter Officers kicked off the fracas through their complete
8 ineptitude or wanton disregard of their duties to protect the public from personal injury or
9 harm to property.

10 84. They are as responsible for the killing of Leontae as the Defendants who
11 actually shot him.

False and Deadly Information

12 85. The Helicopter Officers' bad information does not excuse the subsequent
13 actions by the Defendants.

14 86.

15 87. 911 callers and witnesses give inherently skewed and flawed information.

16 88. This is well known in the policing community.

17 89. This is why it is of dire importance to have officers on foot verify information
18 before charging in with their guns blazing.

19 90. A witness provided the following information "WHILE WALKING
20 EASTBOUND ON THE SOUTHSIDE OF MCDOWELL ROAD SHE OBSERVED
21 WHAT SHE DESCRIBED AS A HISPANIC MALE IN HIS 20'S OR 30'S WEARING A
22 YELLOW JACKET, RED SHORTS AND BLACK SLIPPERS WAS POINTING A GUN
23 AND HER AND HER FRIENDS FROM THE NORTHSIDE OF MCDOWELL AND
24 TOLD THEM TO BE QUIET."

25 91. Any report claiming that Leontae fired his weapon was obviously one
26 hundred percent false.

27 92. Leontae never fired a weapon.

28 93. The report regarding a yellow jacket and red shorts was inaccurate.

1 94. No witness could A) accurately describe what they saw; or, B) saw a
2 completely different person than Leontae pointing a gun at people.

3 95. The Defendants instead ignored what their eyes could plainly see – that upon
4 their arrival, Leontae was in a surrendering position with his hands up and had no weapon
5 in his hands.

6 96. While Leontae was running away from his aggressor, he managed to pull his
7 own gun out of his pocket in defense.

8 97. Video footage proves this.

9 98. Leontae ran away and waved his gun up in the air while frantically searching
10 for cover.

Humberto Gonzalez-Rios

11 99. Humberto Gonzalez-Rios was the aggressor, but he wasn't even given a
12 second thought by the Defendants.

13 100. To date, upon information and belief, shockingly, Humberto has not been
14 charged with a crime, despite the fact that he committed clear assault and instigated
15 everything that followed.

16 101. Despite knowing that two individuals were brandishing weapons (not firing
17 weapons), the Phoenix Defendants seized upon the opportunity to target the only black
18 man.

19 102. Defendants focused on Leontae, a black man, who was doing nothing but
20 scrambling for safety.

21 103. Video shows that the Phoenix Defendants did not even look Humberto's
22 way. They just let him run from the scene while unloading their lethal weapons at Leontae.

23 104. In Officer Thomas Cuthbertson's Report, he noted that he interviewed
24 Humberto.

25 105. The following is what Humberto told Officer Cuthbertson:

26 HUMBERTO WANTED TO KNOW WHY WE ARRESTED HIM. I
27 ADVISED HUMBERTO WE HAD NOT ARRESTED HIM, BUT HE HAD
28 BEEN DETAINED. I TOLD HUMBERTO I DID NOT THINK HE WOULD
BE ARRESTED, BUT I DID NOT KNOW WHAT HAPPENED AND
NEEDED TO FIND OUT FROM HIM WHAT HAPPENED. I ASKED

1 HUMBERTO WHY HE WAS AT THIS LOCATION. HUMBERTO WAS
2 THERE TO PURCHASE BEERS FOR A FRIEND OF HIS. HUMBERTO
3 LIVED NEAR BY, BUT DID NOT KNOW THE ADDRESS. HUMBERTO
NOTED HE LIVED AT NORTH 37TH AVENUE AND WEST GRANADA.

4 HUMBERTO WORKED AS A CARPENTER FOR AN INDIVIDUAL
5 NAMED "JOSE. I ASKED HUMBERTO ABOUT THE MOTORCYCLE.
6 HUMBERTO WAS IN THE PROCESS OF REPAIRING THE
7 MOTORCYCLE FOR A FRIEND NAMED "GUERO" WHO LIVED IN
THE AREA OF 7TH AVENUE AND ROOSEVELT.

8 I ASKED HUMBERTO TO TELL ME WHAT HAPPENED. HUMBERTO
9 DROVE THE MOTORCYCLE DOWN NORTH 37TH AVENUE AND
10 HUMBERTO OBSERVED THE SUBJECT (LEONTAE KIRK) WALK
11 OUT OF THE ALLEY WHILE PUTTING A GUN IN HIS POCKET.
12 HUMBERTO OBSERVED LEONTAE TALK TO A WHITE FEMALE IN
13 THE ALLEY. LEONTAE CALLED THE FEMALE A "BITCH". WHILE
14 IN THE STORE LEONTAE GRABBED SOME BEER FIRST AND ASKED
15 HUMBERTO "WHAT'S UP". WHILE HUMBERTO WAS WAITING TO
16 PURCHASE BEER LEONTAE INSULTED HUMBERTO BY TELLING
17 HUMBERTO TO "SHUT UP" AND SAYING OTHER INSULTING
18 THINGS TO HUMBERTO. HUMBERTO WENT OUTSIDE AND TRIED
19 TO START THE MOTORCYCLE AND NOTED THE MOTORCYCLE
20 WOULD NOT START. HUMBERTO NOTED THE MOTORCYCLE HAD
21 ELECTRICAL PROBLEMS. HUMBERTO SAW LEONTAE EXIT THE
22 STORE. HUMBERTO TOOK OUT A BLACK 9MM RUGER HANDGUN
23 WHICH WAS STOWED IN A COMPARTMENT ON THE
24 MOTORCYCLE. AS LEONTAE EXITED THE STORE LEONTAE
25 PULLED OUT A GUN, POINTED THE GUN AT HUMBERTO, AND
26 HUMBERTO BELIEVED LEONTAE WAS GOING TO SHOOT
27 HUMBERTO. HUMBERTO PULLED OUT THE BLACK 9MM RUGER,
28 POINTED THE GUN AT LEONTAE, AND PULLED THE SLIDE BACK
ON THE GUN TO SCARE LEONTAE OFF. HUMBERTO STATED THE
GUN HE HAD DID NOT HAVE BULLETS. HUMBERTO NOTED THE
GUN DID NOT BELONG TO HIM AND HUMBERTO DID NOT KNOW
WHO THE GUN BELONGED TO AS IT WAS ON THE MOTORCYCLE
WHEN HE RETRIEVED IT FROM "GUERO".

HUMBERTO HID BEHIND A WHITE CAR. HUMBERTO NOTED THE
POLICE ARRIVED AND SHOT AND KILLED LEONTAE.

HUMBERTO NOTED LEONTAE SHOT AT LEAST ONE TIME IN AN
UPWARD DIRECTION.

1 WHEN THE SHOOTING OCCURRED, HUMBERTO RAN TO THE
2 ALLEY AND RAN UP THE ALLEY. HUMBERTO DISCARDED THE
3 GUN IN THE ALLEY, AS HUMBERTO DID NOT WANT TO HAVE ANY
4 PROBLEMS. PRIOR TO THE INTERVIEW HUMBERTO SHOWED ME
THE LOCATION WHERE HE DISCARDED THE GUN AND THE GUN
WAS NOT LOCATED.

5 HUMBERTO HAD NEVER SEEN LEONTAE PREVIOUSLY.
6 HUMBERTO DESCRIBED LEONTAE AS A BLACK MALE, SHORTS,
7 WHITE "CAMISA DE TIRANTES" (POSSIBLY A TANK TOP).
8 HUMBERTO NOTED LEONTAE APPEARED TO BE ON DRUGS OR
DRUNK.

9 HUMBERTO HAD BEEN ARRESTED PREVIOUSLY FOR A TRAFFIC
10 VIOLATION. I ASKED HUMBERTO IF HE HAD A FELONY
11 CONVICTION AND HUMBERTO DID NOT BELIEVE HE HAD A
FELONY.

12 106. Humberto lied in his report to Officer Cuthbertson to protect himself.

13 107. He was the aggressor.

14 108. He pulled his gun on Leontae before Leontae knew what was going on.

15 109. Video footage proves this.

16 110. Humberto lied about almost everything he told the police.

17 111. He was in possession of a – at the very least – chopped up motorcycle. None
18 of the VIN numbers matched.

19 112. He did not try to start the motorcycle as he claimed.

20 113. He claimed Leontae fired his weapon which was 100% false.

21 114. Instead, the video shows that Humberto continued to hunt Leontae.

22 115. This continued until Humberto apparently saw police vehicles heading their
23 way.

24 116. He ran from the property leaving Leontae hiding and wondering if he was
going to continue being hunted.

25 117. Ultimately, Leontae was killed by the Phoenix Defendants and Humberto
26 walked away without a scratch.
27
28

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Officers on the Ground

118. The available video then shows officers arriving.

119. Without warning, provocation, or otherwise, three Phoenix Police officers – Ladines, Roy, and Garza - began shooting at Leontae.

120. None of the Phoenix Defendants secured the scene.

121. None of the Phoenix Defendants intervened – including Ravelo¹

122. Again, by that time, Leontae no longer had a gun in his hand.

123. He had thrown his gun to the ground to avoid the very fate he suffered at the hands of the Defendants.

124. He was defenseless and harmless.

125. He had his hands up and assumed a surrendering position by beginning to slowly sit with his hands up at all times.

126. No police officers announced their presence.

127. No police officers attempted to contact Leontae prior to opening fire on him.

128. No police officers used less lethal methods until after firing their LETHAL service weapons at Leontae.

Sergeant Roy

129. Sergeant Roy is a rank above Officer or Detective. He was a supervisor to the Officers on-scene. He had heightened duties commensurate to his rank.

130. Despite this, Sergeant Roy fired SEVENTEEN bullets at Leontae immediately upon his arrival on scene.

131. Officer Ladines and Garza fired no less than seven (7) bullets at Leontae.

132. The Incident Report details twenty-five (25) separate casings from Phoenix Police service weapons were found strewn about.

133. Body cam footage was obtained for all officers that fired their weapons.

134. Sergeant Roy's Body Cam Footage shows that within thirty-one (31) seconds

¹ There were other officers on scene who are unknown to Plaintiffs at this time. They all potentially failed to intervene to prevent the grossly negligent and reckless actions of Officers Ravelo and Ladines, and Sergeant Roy.

1 – and without announcing his presence, he fired his entire seventeen (17) bullet clip into
2 Leontae from a position directly to Leontae's right side down a sidewalk of a busy business
3 strip mall.

4 135. The footage shows that Sergeant Roy did nothing to assess the situation; did
5 nothing to secure the scene to prevent danger to civilians; clearly could see that Leontae
6 was not holding a weapon; clearly could see Leontae was falling backwards from already
7 being shot; and, despite these facts, recklessly and with conscious disregard to the safety
8 of civilians, including Leontae, fired his entire 17 bullet clip without pause.

9 136. The scene was wildly busy.

10 137. There were civilians entering and exiting businesses within minutes of Roy's
11 actions.

12 138. At two minutes and 25 seconds of Roy's body cam footage a School Bus
13 drives by the scene.

14 139. At two minutes and 59 seconds, a patron exits the liquor store.

15 140. Again, Sergeant Roy took no steps to secure the scene before firing and was
16 by all means lucky nobody exited the liquor store at 31 seconds when he began firing his
17 service weapon.

18 141. According to Detective Interviews of Sergeant Roy, he stated:

19 SERGEANT ROY COULD SEE THE SUBJECT IN THE PARKING LOT,
20 NEAR THE BACK OF A SILVER TRUCK (DODGE RAM). THE
21 SUBJECT WAS FACING AWAY FROM SERGEANT ROY, HOWEVER
22 SERGEANT ROY COULD SEE A GUN IN HIS RIGHT HAND, BEING
23 POINTED IN A NORTHEAST DIRECTION TOWARDS THE BARBER
24 SHOP AND LIQUOR STORE. SERGEANT ROY COULD NOT SEE IF
25 THE SUBJECT WAS FIRING THE WEAPON.

26 SERGEANT ROY KNEW OFFICERS WERE TO THE SOUTH OF THE
27 SUBJECT. SERGEANT ROY BELIEVED THE OFFICERS HAD
28 "CHALLENGED" THE SUBJECT BECAUSE HE RAN NORTH,
BETWEEN THE TRUCK AND VOLKSWAGEN, TOWARDS THE
CELLULAR STORE. SERGEANT ROY RAN NORTH TO THE
SIDEWALK THAT RUNS EAST AND WEST IN FRONT OF THE
BUSINESS COMPLEX.

AS SERGEANT ROY REACHED THE SIDEWALK (JUST EAST OF

1 37TH DRIVE), HE SAW THE SUBJECT EMERGE FROM BETWEEN
2 THE TWO VEHICLES. THE SUBJECT "CROUCHED DOWN" AND
3 TURNED TOWARDS THE OFFICERS (TO THE SOUTH). SERGEANT
4 ROY BELIEVED THE SUBJECT WAS GETTING INTO A POSITION TO
ENGAGE THE OFFICERS IN A "GUNFIGHT".

5 SERGEANT ROY COULD NOT SEE THE GUN BUT HIS BODY
6 LANGUAGE AND POSITIONING MADE SERGEANT ROY BELIEVE
HE WAS STILL ARMED WITH THE GUN.

7 SERGEANT ROY FEARED FOR THE SAFETY OF THE OFFICERS AND
8 FIRED HIS HANDGUN AT THE SUBJECT.

9 SERGEANT ROY FIRED HIS WEAPON UNTIL THE SUBJECT WAS NO
10 LONGER IN A POSITION TO BE A THREAT. AT THIS POINT, THE
11 SUBJECT WAS ON THE GROUND. SERGEANT ROY DID NOT KNOW
12 AT THE TIME HOW MANY ROUNDS HE HAD FIRED. SERGEANT
13 ROY DID A "TACTICAL EXCHANGE" AND LATER LOOKED AT HIS
MAGAZINE AND DISCOVERED HE HAD FIRED 17 ROUNDS.

14 SERGEANT ROY SAW A TEAM BEING DEVELOPED TO APPROACH
15 THE SUBJECT. SERGEANT ROY RETRIEVED THE SHIELD FROM HIS
16 PATROL VEHICLE, JOINED THE TEAM, AND EVENTUALLY THEY
MOVED UP TO THE SUBJECT.

17 SERGEANT ROY EXPLAINED WHEN HE FIRED HIS WEAPON, HE
18 DID NOT SEE ANY CIVILIANS IN THE AREA. HIS BACKDROP WAS
DESCRIBED AS BEING THE SUBJECT.

19 SERGEANT ROY DID NOT HEAR ANY OTHER GUNFIRE BESIDES
20 HIS.

21 142. Roy was not upset by his actions.

22 143. In fact, on his body cam footage it shows that he was bouncing around
23 gleefully following his participation in the killing of Leontae.

24 144. He can be heard on his bodycam footage stating that he has calmed down and
25 displays his hands to the camera and then begins laughing.

26 145. This is less than 10 minutes following the killing of Leontae.

27 146. The remaining Phoenix Defendants and other officers did nothing to
28 intervene.

147. Not a single officer paused for reflection.

148. Not a single Phoenix Defendant or officer put their foot down to establish proper assessment procedures and prevent the death of an innocent civilian, Leontae.

149. Not a single Phoenix Defendant or officer made any attempt – verbal or physical – to de-escalate and prevent their fellow officers from engaging in the most reprehensible and reckless activity possible.

150. Bystanders were everywhere.

151. According to police reports, a 13-year-old² was found in the back of a Dodge Ram pickup truck mere feet from the gunshots – and had been there the entire time of the Incident.

152. Diana Concepcion Flores Ochoa was the driver of the Dodge Ram.

153. According to Police Reports and her interview, she was also inside the Ram during the Incident.

154. She saw Leontae run out of the Convenience Store but did not see anyone with a gun.

155. While the Phoenix Defendants were firing their weapons recklessly and with wanton disregard to the safety of civilians and property, multiple businesses' store fronts ended up with gunshots hitting their windows and walls.

156. Multiple vehicles were also struck by gunshots fired by the Defendants.

157. According to Police Reports:

THERE WAS AN APPARENT BULLET STRIKE (LABELLED "A") TO A SOUTH FACING WINDOW OF THE GRAND STOP TWO BUSINESS. THE INTERIOR SIDE OF THE WINDOW WAS LABELLED "A1". THERE WAS AN APPARENT BULLET STRIKE (LABELLED "A2") TO THE INTERIOR MIRRORS MOUNTED ON THE EAST WALL. THE PROJECTILE WAS UNABLE TO BE RECOVERED.

THERE WERE TWO (2) APPARENT BULLET STRIKES (LABELLED "B" AND "C") ON THE EXTERIOR SOUTH FACING WALL OF JR'S CELLULAR, NEAR THE DECEDENT.

² Upon information and belief this is inaccurate information. It appears that this civilian stated in Spanish that she was in her twenties according to video footage obtained.

1 THERE WAS ONE (1) APPARENT BULLET STRIKE (LABELLED "D")
 2 ON THE LEFT REAR QUARTER PANEL OF THE GOLD HONDA
 3 PILOT, PARKED FACING NORTH TOWARD BUILDING (SPACE 9).
 4 ONE (1) PROJECTILE (ITEM 42) WAS LOCATED IN THE REAR
 5 CARGO AREA OF THE GOLD HONDA PILOT, PARKED FACING
 6 NORTH TOWARD BUILDING (SPACE 9)
 7 THERE WERE POSSIBLE BULLET STRIKES (LABELLED "E", "F",
 8 AND "G") ON THE REAR BUMPER TO THE PARKED GRAY
 9 VOLKSWAGEN JETTA, PARKED FACING NORTH TOWARD
 10 BUILDING (SPACE 10).

11 158. The Defendants displayed a conscious and reckless disregard to not only
 12 Leontae's rights and life, but they endangered civilians, business owners, patrons, property,
 13 children, and anyone who found themselves unlucky enough to be in the vicinity.

14 **Officer Ladines**

15 159. According to Ladines, she was riding with Ravelo in response to a
 16 "SUBJECT WITH A GUN" call.

17 160. She heard the helicopter dispatch call that there was an active shooter.

18 161. Ladines – in contravention to the video evidence – claimed that Leontae was
 19 holding his gun "GANGSTER STYLE."

20 162. Ladines claims she heard shots from Leontae – even adding detail that he had
 21 the gun in his hand and it was moving up and down as he fired.

22 163. Again, video evidence proves this to be demonstrably false.

23 164. She claimed that Leontae was shooting to the North and the East.

24 165. Ladines saw pedestrians walking nearby.

25 166. It is important to note that she only saw them "walking" and not running or
 26 screaming in fear for their lives because a purported gun battle was occurring.

27 167. Additionally, as seen in body cam footage and corroborated by Officer
 28 Ravelo in her investigation interview with Detective Shuck, "THERE WAS AN
 UNIDENTIFIED PERSON AT THE BUS STOP WHO QUICKLY WALKED AWAY
 AFTER BEING ASKED TO DO SO BY OFFICER RAVELO."

168. The bus stop was directly in front of the Incident.

169. Pedestrians were unconcerned.

170. No weapon was fired by Leontae or anyone else – and the Defendants knew

1 it.

2 171. The Defendants had all the information they needed to know this was
3 decidedly not an active shooter situation.

4 172. They deliberately and consciously disregarded the information that was
5 readily available to them. They then killed Leontae.

6 173. According to police reports in response to an interview by detectives,
7 "OFFICER LADINES TOLD ME THE SUBJECT WAS "ACTIVELY SHOOTING IN
8 THE DIRECTION OF AN OCCUPIED BUILDING COMMITTING AGGRAVATED
9 ASSAULT".

10 174. Ladines claimed that Leontae had fired between three (3) and five (5) bullets.

11 175. In a complete lack of clarity, Ladines "THOUGHT" she told the subject to
12 stop.

13 176. Video shows she did not – until after Leontae lie bleeding on the concrete.

14 177. Ladines fired her weapon multiple times into Leontae. She believes she shot
15 five (5) times.

16 178. Ladines then moved closer to Leontae – who was dying on the concrete with
17 no weapon and claims to have heard him firing more bullets.

18 179. Only after Ladines moved to Garza's position did she see that Leontae was
19 slumped against the wall on the concrete.

20 180. She claims that Leontae was raising his hands up and down and moving
21 around.

22 181. He had his hands up in a surrendering body position.

23 182. At this point, the Phoenix Defendants began shouting commands for Leontae
24 to drop his gun over and over – even though all of the Phoenix Defendants could plainly
25 see Leontae had no weapon.

26 183. Ladines claims that Leontae was not complying.

27 184. Concerningly, Ladines then retrieved a non-lethal weapon and fired a 40mm
28 canister into Leontae.

185. No force was necessary, but if any force should have been used, it would

1 have been Non-lethal force – instead of firing a hail of bullets at and into Leontae.

2 186. Instead, Roy, Ladines, and Garza used their lethal firearms without
3 performing any assessment; without announcing; without using de-escalation
4 techniques;and without even securing the scene.

5 187. Ladines and Ravelo quickly concocted a story that Leontae's gun was
6 underneath him as they clearly could not see a weapon.

7 188. Ladines claims then that additional officers arrived with their shields.

8 189. Ballistic shields should have been used before lethal force.

9 190. Only after waiting anywhere between six and ten minutes, did officers
10 approach Leontae to provide medical care.

11 191. Ladines' and Ravelo's story about the gun being underneath Leontae fell
12 apart in a matter of seconds.

13 192. The gun was found underneath a vehicle.

14 193. It was at this point that Ladines realized that a 13-year-old girl was in a
15 vehicle mere feet from the location of Leontae's dying body.

16 194. Ladines doubled-down towards the end of her interview and told the
17 investigator that she fired her weapon because Leontae was actively firing his weapon in
18 public and she wanted to protect civilians and other officers.

19 195. She also stated she did not see other officers firing weapons.

20 **Officer Ravelo**

21 196. In Ravelo's investigation, she stated that "OFFICER LADINES REMOVED
22 HER 40MM GUN, DESIGNED FOR "LESS LETHAL USE," FROM THEIR PATROL
23 CAR'S REAR CARGO AREA AND PLACED THE WEAPON IN THE PASSENGER
24 COMPARTMENT WITH OFFICER RAVELO BEFORE RESPONDING TO THE
25 EMERGENCY RADIO CALL."

26 197. Ladines knew she could use less lethal force and she deliberately chose
27 otherwise.

28 198. Furthermore, Ravelo told Detective Shuck that she "WAS UNSURE IF
LEONTAE WAS THE SUBJECT OF THEIR CALL, AS HE DID NOT MATCH THE

1 DESCRIPTION, AND SHE DID NOT SEE LEONTAE WITH A WEAPON. OFFICER
2 RAVELO CONTINUED LOOKING AROUND FOR A HISPANIC MALE IN THE RED
3 HOODED SWEATSHIRT.”

4 199. Ravelo also told Detective Shuck that she “DID NOT SEE ANYONE WITH
5 A FIREARM OTHER THAN THE POLICE, SO SHE DID NOT DISCHARGE HER
6 WEAPON. OFFICER RAVELO RECALLED HEARING APPROXIMATELY TEN
7 GUNSHOTS BUT NOTED THAT OFFICERS SEEMED TO BE FIRING
8 SIMULTANEOUSLY. AFTER THE GUNFIRE ENDED, LEONTAE WAS DOWN ON
9 THE GROUND, LYING ON HIS BACK WITH HIS HANDS DOWN BY HIS SIDES IN
10 THE SAME VICINITY WHERE OFFICER RAVELO INITIALLY OBSERVED HIM.”

11 200. Officer Ravelo did nothing to stop the actions of her fellow officers.

12 201. Officer Ravelo’s statements to Detective Shuck directly contradict Officer
13 Garza’s, Officer Ladines’, and Sergeant Roy’s statements that Leontae had a weapon in his
14 hands.

15 **Officer Garza**

16 202. According to Detective Interviews of Officer Garza following the incident,
17 the following was stated:

18 WHEN OFFICER GARZA ARRIVED, HE PARKED ON MCDOWELL
19 ROAD, FACING EAST, ON THE NORTH SIDE OF MCDOWELL. HIS
20 VEHICLE WAS IDENTIFIED AS VEHICLE #111739 (STILL PRESENT).
21 OFFICER GARZA SAW THE SUBJECT IN THE PARKING LOT, SOUTH
22 OF THE VEHICLES AND WEST OF THE BOOST MOBILE BUSINESS,
23 POINTING A HANDGUN “AT PEOPLE IN FRONT OF THE BUSINESS”.

24 OFFICER GARZA DESCRIBED THE SUBJECT AS SHOOTING THE
25 HANDGUN IN A NORTHEAST DIRECTION.

26 OFFICER GARZA INDICATED HE DID NOT SEE CIVILIANS, BUT
27 KNEW IT WAS “BUSY” DUE TO THE TIME OF DAY.

28 OFFICER GARZA BELIEVED THE SUBJECT FIRED HIS GUN ONE OR
TWO TIMES. OFFICER GARZA DESCRIBED THE SUBJECT’S GUN AS
A BLACK HANDGUN.

OFFICER GARZA RETRIEVED HIS RIFLE AND EXITED HIS PATROL

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1 VEHICLE. AS HE DID THIS, HE HEARD GUNFIRE.

2 OFFICER GARZA ASSUMED IT WAS AN OFFICER BECAUSE IT WAS
3 COMING FROM HIS LEFT AND KNEW THE SUBJECT WAS NOT AT
4 THAT LOCATION.

5 OFFICER GARZA SAW THE SUBJECT RUN TO THE FRONT OF THE
6 PARKED VEHICLES TOWARDS THE BUSINESSES.

7 OFFICER GARZA RAN EAST DOWN THE SIDEWALK AS HE
8 WANTED TO KEEP THE SUBJECT FROM ENTERING ANY OF THE
9 BUSINESSES. OFFICER GARZA STOPPED JUST SOUTH OF THE
10 SHORT PONY WALL, EAST OF THE BUS STOP.

11 OFFICER GARZA COULD SEE THE SUBJECT RUNNING FROM
12 OTHER OFFICERS. OFFICER GARZA FIRED HIS WEAPON AT THE
13 SUBJECT AS HE (SUBJECT) WAS NEAR THE BOOST MOBILE, NEAR
14 THE FRONT OF A SILVER DODGE RAM TRUCK. OFFICER GARZA
15 FIRED THREE TIMES AND BELIEVED HE HIT THE SUBJECT ALL
16 THREE TIMES.

17 OFFICER GARZA WAS AIMING "CENTER MASS". OFFICER GARZA
18 UTILIZED THE SCOPE THAT WAS ATTACHED TO HIS RIFLE.

19 AFTER, THE SUBJECT FELL TO THE GROUND. OFFICERS WERE
20 GIVING COMMANDS FOR THE SUBJECT TO SHOW HIS HANDS.
21 BECAUSE OF THE SUBJECT'S POSITIONING, OFFICERS COULD
22 NOT SEE THE SUBJECT'S HANDS AND DID NOT KNOW WHERE
23 THE GUN WAS.

24 OFFICER GARZA TOLD OFFICER LADINES TO RETRIEVE HER
25 "LAUNCHER" (40MM). ONCE SHE RETURNED, OFFICER LADINES
26 FIRED ONE ROUND BUT THE SUBJECT DID NOT RESPOND.

27 AFTER THE SHOOTING OCCURRED, OFFICER GARZA SAW
28 NUMEROUS PEOPLE EXIT THE BUSINESSES.

203. Garza claimed that he actually saw Leontae fire his weapon multiple times.

204. Officer Garza had a scope on his AR-15 Daniel Defense rifle.

205. Officer Garza used that scope.

206. Officer Garza could clearly see that Leontae had no weapon.

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207. Yet, Officer Garza fired three shots “CENTER MASS” and believed that all three shots hit Leontae.

208. Officer Garza had the choice to use non-lethal measures.

209. He had a scope to view Leontae through.

210. He clearly did not see Leontae holding a weapon – because Leontae was not holding a weapon.

211. Of note, Garza stated that Leontae was near the front of the silver Dodge Ram.

212. Again, there were people inside the Dodge Ram.

213. Garza did not even clear the area of civilians before he helped kill Leontae by firing his lethal weapon.

Autopsies and Weapons Used

214. The following is taken from the Autopsy information reported in the Police Reports:

DATE OF AUTOPSY: FRIDAY, NOVEMBER 4, 2022

OME CASE NUMBER: 2022-11285

DECEASED: LEONTAE KAAMEECH KIRK

PATHOLOGIST: DOCTOR CROSS

CAUSE OF DEATH: MULTIPLE GUNSHOT WOUNDS

MANNER OF DEATH: HOMICIDE

215. The Police Autopsy describes seventeen (17) projectiles removed from Leontae’s body during examination:

- PROJECTILE; FROM LEFT MID BACK
- PROJECTILE; FROM RIGHT WRIST
- PROJECTILE; FROM LEFT HAND
- PROJECTILE; FROM RIGHT KNEE
- PROJECTILE; FROM LEFT CHEST WELL
- PROJECTILE; FROM LEFT INTERCOSTAL SPACE
- PROJECTILE; FROM POSTERIOR LEFT ABDOMEN
- PROJECTILE; FROM RIGHT PELVIS
- PROJECTILE; FROM LEFT PELVIS
- PROJECTILE; FROM LEFT 11TH RIB

- 1 - PROJECTILE; FROM LEFT BUTTOCK
- 2 - PROJECTILE; FRAGMENTS FROM RIGHT THIGH
- 3 - PROJECTILE; FRAGMENT FROM LEFT PERIRENAL TISSUE
- 4 - PROJECTILE; FRAGMENT FROM RIGHT LUNG
- 5 - PROJECTILE; FRAGMENTS, MISC
- 6 - OTHER; BLUE FRAGMENT FROM RIGHT ABDOMEN
- 7 - OTHER; METAL FRAGMENT FROM PUBIS

8 216. A private autopsy was also performed. Similar results were found – except
9 that the private autopsy found nineteen (19) bullet wounds. Both autopsy reports list cause
10 of death as Homicide.

11 217. The types of weapons used included a Daniel Defense 5.56 Caliber AR-15
12 Rifle by Officer Garza.

13 218. These types of rifles cause cavitation. This means that instead of a bullet
14 passing straight through, it creates a cavity in the body. The high velocity of the weapon
15 also liquifies organs.

16 219. Officer Ladines used her 9MM Glock.

17 220. Sergeant Roy used his 9MM Glock.

18 221. Three Projectiles were recovered from the parking lot south of Jorge's
19 Barbershop, the ground underneath a silver 2005 Honda Lx, and the rear cargo area of a
20 gold 2003 Honda Pilot.

21 222. A black projectile (.40 caliber) was recovered in a parking space south of
22 JR's Cellular.

23 223. Seventeen bullet casings from a WIN 9MM Luger were recovered on the
24 ground and the sidewalk on the northwest corner of the parking lot.

25 224. Four bullet casings from a WIN 9MM Luger were found in the roadway
26 south of businesses and in the rocks south of businesses.

27 225. Another bullet casing was found from an EXT SH 223 REM in the rocks on
28 the east side of North 37th Drive.

226. Three other bullet casings from an FC 223 REM were found in the parking
lot south of Jorge's Barber Shop / Beauty Salon.

227. A cartridge from an FC 223 REM was found in the rocks south of the

1 businesses.

2 **THE AFTERMATH**

3 228. In spite of the Phoenix Defendants' unreasonable, misleading, malicious,
4 unlawful conduct on November 2, 2022, and their alarmingly inaccurate account of the
5 events surrounding Leontae's death, upon information and belief, all of the Phoenix
6 Defendants remain employed at the Phoenix Police Department.

7 229. Upon information and belief, the City and the Phoenix Police Department
8 failed to place any of the officers involved in the killing of Leontae on disciplinary leave
9 and it is unknown if any of them received any kind of disciplinary action at all.

10 230. The Phoenix Police Department's, Sullivan's, and the City's deliberate
11 decision to keep all three officers employed is just another glaring example of their
12 indifference towards officers' unlawful use of deadly force.

13 231. In fact, upon information and belief, the City, Sullivan, and the Phoenix
14 Defendants acted swiftly to try and cover up what actually happened.

15 232. On the body cam footage obtained, it was only after the Phoenix Defendants
16 shot Leontae nineteen (19) times – not including the bullets that missed Leontae and put
17 other civilians and business in danger – that the Phoenix Defendants began yelling at
18 Leontae to “drop the gun” repeatedly.

19 233. Leontae did not have a gun.

20 234. The Phoenix Defendants then began frantically asking each other where the
21 gun was.

22 235. The Phoenix Defendants continue frantically telling each other that they
23 cannot see a gun.

24 236. They concoct quick stories that the gun must be underneath his body.

25 237. They continue to yell at him to put his hands up, but he was already
26 unconscious.

27 238. On Ladines' body cam footage she can be heard saying “Hey where's the
28 gun?”, and “I'm not seeing anything”.

239. Later on the same footage, while Leontae lied upon the ground dying,

1 officers can be heard stating “Where’s the fire department? No clue – maybe these
2 barricades are too good” and then laughter all around is heard.

3 240. On the same day that Leontae was wrongfully killed, the Phoenix Police
4 Department issued a statement that said in its entirety:

5 Phoenix police detectives are investigating an officer involved shooting that
6 left one man dead. Officers were dispatched to a subject with a gun call in the
7 area of 37th Drive and McDowell Road.

8 The caller told the 911 operator that a man was armed with a gun and was
9 pointing it at him.

10 When the officers got there, they found multiple people with guns in the
11 parking lot of a strip mall. ***The officers saw one of the men shooting his gun
at others and this was when the officer involved shooting occurred.***

12 After the shooting, officers moved up and used a less-lethal tool in order to
13 encourage the suspect to show his hands. After no response, the officers moved
14 up and provided aide until the fire department arrived. The suspect was
15 pronounced deceased on scene. A gun was located near the suspect.

16 Homicide detectives responded and are currently on scene and investigating
the shooting. The investigation remains active. There were no injuries to
officers or other community members.

17 Phoenix Police Department Media Advisory, Incident # 2022-1649049. (emphasis
18 added).

19 241. The City and Phoenix Defendants knew that Leontae had not fired his
20 weapon.

21 242. They knew that his weapon was found under a vehicle.

22 243. The City, Sullivan, and the Phoenix Defendants deliberately lied to the public
23 in an attempt to save face knowing full well that they had wrongfully killed Leontae.

24 244. The Phoenix Defendants acted maliciously, recklessly, and with an extreme
25 indifference to the value of human life, causing the wrongful death of Leontae.

26 245. Despite this, the City, Sullivan, and the Phoenix Police Department have
27 made the conscious decision to keep all three officers employed within positions where
28 they will continually have contact with the citizens of Phoenix, Arizona.

246. The only explanation for a willful decision of this disturbing nature is that both the Phoenix Police Department, the City, and Sullivan are acting with blatant disregard towards the constitutional rights of citizens and the sanctity of their lives.

COUNT I
WRONGFUL DEATH AND SURVIVAL ACTION PURSUANT TO A.R.S. § 12-611, et seq. and A.R.S. § 14-3110

247. Plaintiffs incorporate the allegations in the foregoing paragraphs as though fully set forth herein.

248. A.R.S. § 12-611, *et seq.* provides that “When death of a person is caused by wrongful act, neglect or default, and the act, neglect or default is such as would, if death had not ensued, have entitled the party injured to maintain an action to recover damages in respect thereof, then, and in every such case, the person who or the corporation which would have been liable if death had not ensued shall be liable to an action for damages, notwithstanding the death of the person injured, and although the death was caused under such circumstances as amount in law to murder in the first or second degree or manslaughter.”

249. A.R.S. § 14-3110 provides that “Every cause of action, except a cause of action for damages for breach of promise to marry, seduction, libel, slander, separate maintenance, alimony, loss of consortium or invasion of the right of privacy, shall survive the death of the person entitled thereto or liable therefor, and may be asserted by or against the personal representative of such person, provided that upon the death of the person injured, damages for pain and suffering of such injured person shall not be allowed.”

250. Kashane Kirk is the personal representative of the Estate and has the authority to bring a survival action.

251. Sharon Roberts is the mother of Leontae and has the right under Arizona law to bring a wrongful death action on behalf of all statutory beneficiaries including MC.

252. Phoenix Defendants caused the wrongful death of Leontae by their unlawful

1 act of shooting Leontae nineteen (19) times, and by their failure to intercede in violation of
2 their duties.

3 253. Additionally, the City is vicariously liable for the acts and omissions of their
4 employees, including without limitation those employees listed herein as the Phoenix
5 Defendants.

6 254. As a direct and proximate result of the unlawful, reckless, and grossly
7 negligent actions of the Phoenix Defendants, Leontae suffered an untimely and preventable
8 death and lost the ability to provide for his daughter and mother.

9 255. As a direct and proximate result, Leontae's mother and daughter have been
10 deprived of the continued companionship and society of their son and father, and have
11 suffered and continue to suffer the loss of a loved one, affection, companionship, care,
12 protection, guidance, as well as pain, grief, sorrow, anguish, stress, shock, mental suffering,
13 and have suffered both economic and non-economic damages in an amount to be proven
14 at trial.

15 256. Additionally, the acts of Defendants and their employees and agents, as set
16 forth above, demonstrate gross and wanton negligence in that each of them knew or had
17 reason to know that their acts individually and collectively created an unreasonable risk of
18 bodily harm to Leontae and a high probability that substantial harm would result.

19 257. In causing the painful, barbaric and premature death of Leontae, Defendants
20 and their employees and agents acted with an evil mind and a malignant heart warranting
21 an award of punitive damages.

22 **COUNT II**

23 **EXCESSIVE FORCE IN VIOLATION OF THE FOURTH AND FOURTEENTH** 24 **AMENDMENTS AND 42 U.S.C. § 1983**

25 *(Phoenix Defendants)*

26 258. Plaintiffs incorporate the allegations in the foregoing paragraphs as though
27 fully set forth herein.

28 259. 42 U.S.C. § 1983 provides individuals with a cause of action to sue for
violations of his or her constitutional rights. The 14th Amendment protects individuals

1 from constitutional violations of State and local authorities. As incorporated by the 14th
2 Amendment, the 4th Amendment protects individuals from the use of excessive force by
3 law enforcement officers. The Defendants, while acting in their official capacity and
4 individual capacities and under the color of law, violated Leontae Kirk's rights to freedom
5 from unreasonable seizures.

6 260. The Phoenix Defendants acted willfully, knowingly, and with specific intent
7 to deprive Leontae of his rights under the Fourth Amendment of the United States
8 Constitution, including his right to be secure in his person and free from the use of
9 unreasonable force and seizure.

10 261. The Phoenix Defendants acted unreasonably by using unnecessary deadly
11 forced as described herein.

12 262. Leontae was not resisting arrest.

13 263. Leontae was unarmed.

14 264. Leontae was holding his hands up and began to sit down in a surrendering
15 position.

16 265. Despite the clear evidence that Leontae was unarmed, not resisting arrest,
17 and was surrendering with his hands in the air, Defendants Garza, Roy, and Ladines used
18 lethal force which was objectively unreasonable under the totality of the circumstances.

19 266. Ramirez, Ravelo, and Howard failed to intercede or intervene to prevent
20 their fellow officers from using unwarranted, reckless force with wanton disregard to the
21 preservation of life.

22 267. Leontae's death was the direct result of the Phoenix Defendants' actions and
23 inactions.

24 268. Additionally, the acts of Defendants and their employees and agents, as set
25 forth above, demonstrate gross and wanton negligence in that each of them knew or had
26 reason to know that their acts individually and collectively created an unreasonable risk of
27 bodily harm to Leontae and a high probability that substantial harm would result.

28 269. In causing the painful, barbaric and premature death of Leontae, Defendants
and their employees and agents acted with an evil mind and a malignant heart warranting

1 an award of punitive damages.

2 **COUNT III**

3 **EXCESSIVE FORCE IN VIOLATION OF THE FOURTH AND FOURTEENTH**
 4 **AMENDMENTS AND 42 U.S.C. § 1983 – Monell - POLICY**

5 *(City; Sullivan)*

6 270. Plaintiff incorporates by reference all previous allegations as fully set forth
 7 herein.

8 271. As previously explained, U.S.C. § 1983 provides individuals with a cause of
 9 action to sue for violations of their constitutional rights.

10 272. Defendant City and Defendant Sullivan's acts or failure to act deprived
 11 Leontae of his constitutional rights.

12 273. The City has for years established and implemented policies and procedures
 13 that created a pattern and practice in the Phoenix Police Department that consistently acts
 14 with wanton disregard for the rights of individuals and the sanctity of human life.

15 274. Despite the Phoenix Police Department's and the City's ministrations, de-
 16 escalation techniques are upon information and belief rarely used and the wrongful use of
 17 deadly force has become the norm.

18 275. The City and Sullivan provide little transparency to the investigation and
 19 discipline – if any – of its officers and agents.

20 276. The City and Sullivan release edited or redacted versions of evidence which
 21 limit or hide information that should be released.

22 277. If de-escalation was truly a priority, Leontae would still be alive today.

23 278. The policies and procedures in place have failed and established a police
 24 force that has consistently acted with blatant disregard to Leontae's constitutional rights
 25 and extreme indifference to the value of his life.

26 279. The Phoenix Police Department has consistently failed to adequately
 27 discipline their officers who engage in unlawful conduct, ultimately creating a culture in
 28 which use of excessive force and unreasonable use of deadly force is commonplace.

280. Therefore, the formal policy adopted by Defendant City and Defendant

1 Sullivan, lead their officers to deliberately follow their rules and regulations, resulting in
2 Leontae's wrongful death.

3 COUNT IV

4 EXCESSIVE FORCE IN VIOLATION OF THE FOURTH AND FOURTEENTH 5 AMENDMENTS AND 42 U.S.C. § 1983 – Monell – CUSTOM AND PRACTICE

6 *(City; Sullivan)*

7 281. Plaintiff incorporates by reference all previous allegations as fully set forth
8 herein.

9 282. As previously explained, U.S.C. § 1983 provides individuals with a cause of
10 action to sue for violations of their constitutional rights.

11 283. Defendant City and Defendant Sullivan's acts or failure to act deprived
12 Leontae of his constitutional rights.

13 284. As described herein, the City and the Phoenix Police Department through
14 Defendant Sullivan and his predecessors has for years created a legacy of using deadly and
15 unlawful force against the citizens of Phoenix, Arizon.

16 285. The City, the Phoenix Police Department, and Defendant Sullivan as well as
17 his predecessors has for years acted pursuant to their customs and practices in the use of
18 deadly force, which is an expressly adopted official policy or custom within the Phoenix
19 Police Department.

20 286. Operation Orders advise officers on the use of de-escalation techniques in
21 situations where objectively no lethal force is warranted.

22 287. The City and Sullivan were aware of the Phoenix Police Department's
23 history of Chiefs claiming that new de-escalation policies or use of force policies had been
24 established.

25 288. The statistics show otherwise.

26 289. Instead, the customs and practices of the City, the Phoenix Police
27 Department, and Sullivan show that the de-escalation and use of non-lethal force is not
28 enforced through written policy but established and ratified by custom and practice.

29 290. Despite the Phoenix Police Department's and the City's ministrations, de-

1 escalation techniques are upon information and belief rarely used and the wrongful use of
2 deadly force has become the norm.

3 291. If de-escalation was truly a priority, Leontae would still be alive today.

4 292. The policies and procedures in place have failed and established a police
5 force that has consistently acted with blatant disregard to Leontae's constitutional rights
6 and extreme indifference to the value of his life.

7 293. It is unquestionable that there is a systemic failure by the City, the Phoenix
8 Police Department, and Sullivan that have allowed, supported, and established the
9 commonplace use of lethal force violative of the rights of the citizens of Phoenix, Arizona.

10 294. Therefore, the established customs and practices led directly to the death of
11 Leontae.

12 295. The City and Sullivan are liable for Leontae's death due to its established
13 customs, patterns, and practices.

14 COUNT V

15 DUTY AND FAILURE TO INTERVENE

16 *(Phoenix Defendants)*

17 296. Plaintiffs incorporate the allegations in the foregoing paragraphs as though
18 fully set forth herein.

19 297. "[P]olice officers have a duty to intercede when their fellow officers violate
20 the constitutional rights of a suspect or other citizen." Cunningham, 229 F.3d at 1289
21 (quotations omitted) (quoting United States v. Koon, 34 F.3d 1416, 1447, n.25 (9th Cir.
22 1994)). "Importantly, however, officers can be held liable for failing to intercede only if
23 they had an opportunity to intercede." Id. (citation omitted).

24 298. Law enforcement officers who have a realistic opportunity to prevent a
25 fellow officer from violating a citizen's Constitutional rights have a duty to intervene to
26 protect the victim from the unconstitutional retaliation, use of force or violation of due
27 process of law.

28 299. As set forth herein, at no time did any of the Phoenix Defendants make any

1 affirmative step to intervene to protect Plaintiffs' Constitutional rights.

2 300. The acts and/or omissions of Phoenix Defendants were willful, wanton,
3 reckless, malicious, oppressive and/or done with a conscious or reckless disregard for the
4 rights of Plaintiffs. Plaintiffs, therefore, prays for an award of punitive and exemplary
5 damages against these individual defendants in an amount to be determined according to
6 proof.

7 301. Plaintiffs suffered damages as a direct and proximate result of the illegal acts
8 of the Phoenix Defendants.

9 **COUNT VI**
10 **GROSS NEGLIGENCE**

11 *(All Defendants)*

12 302. Plaintiffs incorporate the allegations in the foregoing paragraphs as though
13 fully set forth herein.

14 303. Under Arizona Revised Statute § 12-820.02(A) a public employee acting
15 within the scope of the public employee's employment can be liable for damages and
16 injuries if the employee was grossly negligent.

17 304. Roy's, Garza's, Ladines', Howards', and Ramirez' actions were willful and
18 wanton with reckless indifference to Leontae's life and safety.

19 305. Roy's, Garza's, Ladines', Howards', and Ramirez' actions created an
20 unreasonable risk of harm to Leontae and that risk was so great that it was highly probable
21 that harm would have resulted.

22 306. Defendants systematically and repeatedly acted with reckless indifference
23 towards Leontae's life and safety, including their acts and omissions set forth above,
24 resulting in the wrongful death of Leontae.

25 307. Defendant City of Phoenix is vicariously liable under *respondeat superior*
26 for the actions of any employee, agent, or servant of the City of Phoenix, including that of
27 the other named Defendants in this case.

28 308. Defendant Roy was grossly negligent and acted with reckless indifference to

1 Leontae's life and safety by using excessive force objectively unreasonable under the
2 totality of the circumstances.

3 309. Defendant Garza was grossly negligent and acted with reckless indifference
4 to Leontae's life and safety by using excessive force objectively unreasonable under the
5 totality of the circumstances.

6 310. Defendant Ladines was grossly negligent and acted with reckless
7 indifference to Leontae's life and safety by using excessive force objectively unreasonable
8 under the totality of the circumstances.

9 311. The remaining Phoenix Defendants, Ramirez, Ravelo, and Howard breached
10 the standard of care by failing to intercede or intervene to prevent their fellow officers from
11 using unwarranted, reckless force with wanton disregard to the preservation of life.

12 312. The Phoenix Defendants, while acting as agents and employees for the
13 Phoenix Police Department, owed a duty to Leontae to perform their responsibilities as
14 officers of the law without reckless indifference to Leontae's life and safety.

15 313. The Phoenix Defendants, while acting as agents and employees for Phoenix
16 Police Department, owed a duty to Leontae to act objectively reasonably and without
17 reckless indifference to Leontae's life and safety.

18 314. The Phoenix Defendants' use of deadly and excessive force upon Leontae
19 constitutes reckless indifference to Leontae's life and safety and gross negligence for
20 which the Defendants are individually liable.

21 315. The Phoenix Defendants' conduct, in not using non-lethal force that was
22 readily available, constitutes gross negligence for which the Phoenix Defendants are
23 individually liable.

24 316. In taking the actions as described above, the Phoenix Defendants breached
25 their duty to refrain from such unreasonable and recklessly indifferent conduct.

26 317. As a direct and proximate result of Defendants' breach, Leontae Kirk
27 sustained severe and permanent injuries, suffered extreme pain and suffering, lost the
28 ability to have and maintain meaningful familial relationships, lost the ability to provide
for his daughter and his mother, and lost his life.

1 318. Defendants' acts and omissions set forth above, also demonstrate gross and
 2 wanton negligence in that each of them knew or had reason to know that their acts
 3 individually and collectively created an unreasonable risk of bodily harm to Leontae and a
 4 high probability that substantial harm would result.

5 6 **COUNT VII**

7 **BATTERY AND SURVIVAL ACTION PURSUANT TO A.R.S § 12-542, 14-3110**

8 *(Phoenix Defendants)*

9 319. Plaintiffs incorporate the allegations in the foregoing paragraphs as though
 10 fully set forth herein.

11 320. The Phoenix Defendants intentionally shot Leontae causing harmful or
 12 offensive contact with Leontae.

13 321. As a direct and proximate result of the Phoenix Defendants' harmful or
 14 offensive contact, Leontae died.

15 322. These Defendants' acts constitute a battery upon Leontae in the above-
 16 described bodily contact was intentional, unauthorized, or grossly offensive in nature.

17 323. The acts and omissions of these Defendants were intentional, negligent,
 18 reckless, and unwarranted, and without any just cause or provocation.

19 324. As a direct and proximate result of these Defendants' conduct, Leontae was
 20 deprived of his liberty, and was ultimately killed. The conduct described herein was
 21 undertaken by the Phoenix Defendants within the scope of their employment and under
 22 color of law such that their employer, Phoenix Police Department – and the City of Phoenix
 23 – are vicariously liable for their actions.

24 **COUNT VIII**

25 **NEGLIGENT HIRING, SUPERVISION, RETENTION, AND/OR TRAINING**

26 *(Sullivan, City)*

27 325. Plaintiffs incorporate the allegations in the foregoing paragraphs as though
 28 fully set forth herein.

 326. Under Arizona law, an employer may be held directly liable for negligent

1 hiring, retaining and supervision of their employees if: i) The employer knew or should
2 have known the risk of hiring, supervising, and training a particular employee and, ii) The
3 employer's negligence proximately caused the plaintiff's injury.

4 327. Upon information and belief, the Phoenix Police Department through the
5 City is ranked as the top policing agency in the nation for use of deadly force by officers.

6 328. As discussed herein, this got the USDOJ's attention and they began
7 investigating the Phoenix Police Department for systemic violations through their failure
8 to properly train, investigate, or discipline officers.

9 329. The City through the Phoenix Police Department was negligent in their
10 hiring, supervision, retention, and/or training of the Defendants.

11 330. Defendant City and Defendant Sullivan's acts or failure to act deprived
12 Leontae of his constitutional rights.

13 331. Defendant City and Defendant Sullivan have a duty to adequately train their
14 police officers to protect members of the public.

15 332. The Phoenix Defendants and Defendant Sullivan were acting under the color
16 of state law.

17 333. The Operation Orders of the Phoenix Police Department were not adequate
18 to handle the usual and recurring situations that Phoenix Police officers face.

19 334. As a result of the USDOJ investigation, the Phoenix Police Department
20 received suggestions to increase the usage of de-escalation techniques and decrease the
21 employment of unwarranted deadly force.

22 335. Defendant City and Defendant Sullivan, undeniably failed to employ these
23 suggestions from the USDOJ and maintains inadequate training.

24 336. Sullivan has publicly stated that over four hundred (400) officers had not
25 received proper training on the use of less than lethal force.

26 337. The acts, omissions, and conduct of the Defendants as described herein were
27 the direct and proximate cause of the injuries and death of Leontae and violated Leontae's
28 constitutional, statutory and common law rights as guaranteed by the law and Constitution
of the State of Arizona.

MILLS + WOODS LAW, PLLC
5055 North 12th Street, Ste 101
Phoenix, AZ 85014
Telephone: 480.999.4556

JURY TRIAL DEMAND

338. Plaintiffs hereby demand a jury trial in this matter as to all claims and against all Defendants.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs requests that the Court enter judgment against the Defendants and in favor of the Plaintiffs, as follows:

- a) For compensatory, general and special damages against each and every Defendant, jointly and severally, in an amount to be proven at trial;
- b) For all other non-pecuniary damages as to be proven at trial;
- c) For punitive and exemplary damages against Defendants in an amount appropriate to punish the wrongful conduct alleged herein and to deter such conduct in the future;
- d) For pre-and post judgment interest to the extent provided by law;
- e) For Plaintiffs' incurred costs, including all incurred attorneys' fees and court costs, pursuant to 42 U.S.C. §1988 and as otherwise authorized by any other statute or law; and
- f) For such other relief as this Court may deem proper.

RESPECTFULLY SUBMITTED this 25th day of October 2023.

MILLS + WOODS LAW, PLLC

By /s/ Sean A. Woods
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Sean A. Woods
5055 North 12th Street, Suite 101
Phoenix, Arizona 85014
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on October 25, 2023, I electronically transmitted the foregoing document to the Clerk's Office using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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/s/ Ben Dangerfield